APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/513,462	02/25/2000	Markus Lautenbacher	P00.0289	7313

7590   07/16/2002

SCHIFF, HARDIN & WAITE
PATENT DEPARTMENT
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EXAMINER
BACKER, FIRMIN

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 07/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	
Office Action Summary	09/513,462	LAUTENBACHER, MARKUS	
	Examiner	Art Unit	
	Firmin Backer	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _25 February 2000_ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-14_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-14_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☒ None of:

        1.☒ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)	4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) ☐ Other: _____ .

U.S. Patent and Trademark Office
PTO-326 (Rev. 04-01)   Office Action Summary   Part of Paper No. 7

DETAILED ACTION

This is in response to a letter for patent filed on February 25th, 2000 in which claims 1-14 are

presented for examination. Claims 1-14 are pending in the letter.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United
States before the invention thereof by the applicant for patent, or on an international application by another who
has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention
thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) do not apply to the examination of this application as the application being examined

was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment

by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2.   Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Halpern et al

(U>S. Patent No. 6,282,711).

3.   As per claims 1, Halpern et al teach a method of using software products that are offered

via a network (*see abstract, fig 1)* comprising inquiring about a software (*software components)*

product from an offer server (*remote server, 102*) by a user via a terminal device (*client system 101*) downloading (*downloading*) the software product from the offer server via the network onto the terminal device in response to the inquiry of the user (*see abstract, fig 1, 2, column 4 lines 44-5 line 47*) activating (*installing*) a software component (*subset*) of the software product; starting a communication by way of the software component with a usage processing server regarding a usage of the software product in response to a call of the software product in the terminal device of the user (*see abstract, fig 1, 2, column 4 lines 44-5 line 47*); providing, by the software component in a framework of the communication, data to the usage processing server; and checking the data, by the usage processing server, and then making a determination selected from the group consisting of: whether usage of the software product is approved with respect to the inquiring user, and whether charging operations are carried out on user accounts and provider of software product accounts (*see abstract, fig 1, 2, column 6 line 29-67*).

4.   As per claims 2 and 3, Halpern et al teach a method further comprising operating the usage processing and the offer server by a network provider (*see abstract, fig 1, 2, column 4 lines 44-5 line 47*).

5.   As per claims 4, Halpern et al teach a method further comprising using a web server for a server selected from the group consisting of the offer server and the usage processing server (*see abstract, fig 1, 2, column 4 lines 44-5 line 47*).

6.   As per claims 5, Halpern et al teach a usage processing server comprising: a usage processing module for processing a software product downloaded from a network; wherein the usage processing server is contacted by the software product after the software product has been downloaded into a terminal device of a user and has been activated; and wherein usage processing data required to perform usage processing are delivered to the usage processing server (*see abstract, fig 1, 2, column 4 lines 44-5 line 47*).

7.   As per claims 6, Halpern et al teach a usage processing server further comprising: a data store in which a software product identification of the software product and type of usage processing data that prescribe a type of usage processing of the software product are stored by the usage processing module, and wherein the usage processing module registers the software product (*see abstract, fig 1, 2, column 4 lines 44-5 line 47*).

8.   As per claims 7, Halpern et al teach a usage processing server wherein: the usage processing data required comprises a software product identification of the software product and a user identification (*see abstract, fig 1, 2, column 4 lines 44-5 line 47*).

9.   As per claims 8, Halpern et al teach a usage processing server wherein: the usage processing comprises performing an access control (*see abstract, fig 1, 2, column 4 lines 44-5 line 47*).

10.   As per claims 9, Halpern et al teach a usage processing server wherein: the usage

processing comprises performing a usage charging of the software product on user accounts and

provider accounts (*see abstract, fig 1, 2, column 4 lines 44-5 line 47*).

11.   As per claims 10, Halpern et al teach a usage processing server according to claim 5,

wherein: the usage processing module keeps statistics about usage contacts that have taken place

and about results of a processing of the usage contacts (*see abstract, fig 1, 2, column 4 lines 44-5

line 47*).

12.   As per claims 11, Halpern et al teach a software product, comprising: a software

component that is activated when called by the software product and that subsequently starts

communicating with a usage process server and delivers usage processing data required for

performing usage processing to the usage processing server in the framework of the

communication; wherein the software product can be downloaded into a terminal device by a

user via a network in response to an inquiry from the user (*see abstract, fig 1, 2, column 4 lines

44-5 line 47*).

13.   As per claims 12, Halpern et al teach a software product wherein the usage processing

data comprises: software product provider data; and software product identification; and wherein

the usage processing data is dynamically determined user data (*see abstract, fig 1, 2, column 4

lines 44-5 line 47*).

14.   As per claims 13, Halpern et al teach a software product wherein the software component

interacts with the user to produce the dynamically determined user data (*see abstract, fig 1, 2,*

column 4 lines 44-5 line 47).

15.   As per claims 14, Halpern et al teach a method for the generation of a software product

that is offered via a network (*see abstract, fig 1*), comprising the steps of installing a software

component in source code of the software product of a software manufacturer by using a

software development kit provided by a usage processing provider (*see abstract, fig 1, 2, column*

4 lines 44-5 line 47). activating the software component when called by the software product;

starting a communication by the software component with a usage processing server after the

step of activating the software component; sending, by the software component, usage

processing data that are required for performing usage processing to the usage processing server

in the framework of the communication (*see abstract, fig 1, 2, column 6 line 29-67*).


Conclusion

16.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure (*see form 892*).

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The

examiner can normally be reached on Mon-Thu 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Trammel can be reached on (703) 305-9768. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 305-7687 for regular

communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 308-1113.
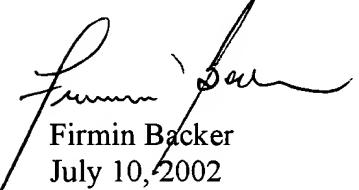
Firmin Backer
July 10, 2002
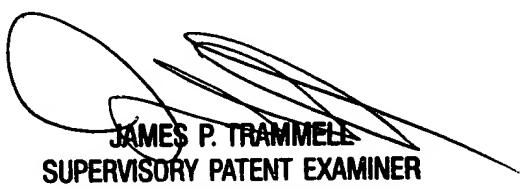
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